

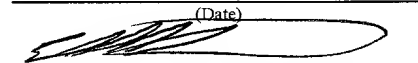
## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Diaz et al. )  
 )  
 Reissue of )  
 Patent No. : 5,890,128 )  
 )  
 Issued : March 30, 1999 )  
 )  
 For : PERSONALIZED HAND )  
 HELD CALORIE COMPUTER )  
 )

I hereby certify that this correspondence and all marked attachments are being deposited with the United States Postal Service as first-class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D C. 20231, on

March 29, 2001

(Date)



Edward A. Schlatter, Reg No 32,297

PRELIMINARY AMENDMENT UNDER 37 C.F.R. § 1.173(b)

Assistant Commissioner for Patents  
 Washington, D.C. 20231

Dear Sir:

Preliminary to the examination of the above-identified reissue application, Applicant respectfully requests entry of the following amendments:

**IN THE CLAIMS:**

Please add new Claims 16-55 as follows:

16. An interactive personal nutrition and exercise management tool computing device comprising:

(a) a housing sized and shaped to be held in a hand of a user;

(b) a computer processor within said housing, said computer processor operatively coupled to a memory, a user interface and a display;

(c) nutrition data for various food items stored in said memory and exercise data for various exercise activities stored in said memory;

(d) software stored in said memory, said software including a data retrieval portion and a display portion, said display portion and said data retrieval portion configured such that said user can select nutrition data for at least one of said various

food items ; said display portion and said data retrieval portion also configured such that a user can select exercise data for at least one of said various exercise activities;

(e) said software further including an accumulation portion and a burning portion, said accumulation portion configured to calculate nutrition accumulation during a time period, based at least in part on said nutrition data selected by said user, and said burning portion configured to calculate nutrition burned during said time period, based at least in part on said exercise data selected by said user.

17. The interactive personal nutrition and exercise management tool computer device of Claim 16, wherein said display portion and said display portion are configured such that said user can select said one of said various food items by navigating with said user interface and said display through a nutrition menu.

18. The interactive personal nutrition and exercise management tool computer device of Claim 16, wherein said display portion and said display portion are configured such that said user can select said one of said various exercise activities by navigating with said user interface and said display through an exercise menu.

19. The interactive personal nutrition and exercise management tool computer device of Claim 16, wherein said software includes a personal data portion that is configured such that said user can enter personal data with user interface and store said personal data in said memory.

20. The interactive personal nutrition and exercise management tool computer device of Claim 19, wherein said nutrition output portion is further configured to calculate nutrition burned during said time period based at least in part on said personal data.

21. The interactive personal nutrition and exercise management tool computer device of Claim 19, wherein said personal data includes at least said user's weight, height, and sex.

22. The interactive personal nutrition and exercise management tool computer device of Claim 16, wherein said nutrition data includes a calorie content per serving of said various food items.

23. The interactive personal nutrition and exercise management tool computer device of Claim 22, wherein said nutrition data includes a fat content per serving of said various food items.

24. The interactive personal nutrition and exercise management tool computer device of Claim 16, wherein said nutrition data includes a fat content per serving of said various food items.

25. The interactive personal nutrition and exercise management tool computer device of Claim 16, wherein said software is configured such that said user can input with said user interface a serving size of said at least one of said various food items and said serving size is used to adjust said nutritional input.

26. The interactive personal nutrition and exercise management tool computer device of Claim 16, wherein said software is configured such that said user can input with said user interface an exercise time and said exercise time is used to calculate said nutritional output.

27. The interactive personal nutrition and exercise management tool computer device of Claim 16, wherein said processor includes a timer and said software is configured such that said user can use said timer to determine an exercise time, and said exercise time is used to calculate said nutritional output.

28. The interactive personal nutrition and exercise management tool computer device of Claim 27, wherein said user interface includes a toggle switch that is operatively coupled to said timer and configured such that said user can start and stop said timer.

29. The interactive personal nutrition and exercise management tool computer device of Claim 16, further including a receiver that is configured to receive exercise data from exercise equipment.

30. The interactive personal nutrition and exercise management tool computer device of Claim 16, wherein said software is configured such that said user can input with said user interface an activity level of said one of said various exercise activities, said activity level used to adjust said nutrition burned.

31. The interactive personal nutrition and exercise management tool computer device of Claim 16, wherein burning portion is configured to calculate calories burned during said time period.

32. The interactive personal nutrition and exercise management tool computer device of Claim 16, wherein said display portion is configured to display said nutrition accumulation for said time period in a tabular format on said display.

33. The interactive personal nutrition and exercise management tool computer device of Claim 16, wherein said display portion is configured to display said nutrition accumulation for said time period in a graphical format on said display.

34. The interactive personal nutrition and exercise management tool computer device of Claim 16, wherein said display portion is configured to display said nutrition burned for said time period in a tabular format on said display.

35. The interactive personal nutrition and exercise management tool computer device of Claim 16, wherein said display portion is configured to display said nutrition burned for said time period in a tabular format on said display.

36. The interactive personal nutrition and exercise management tool computer device of Claim 16, wherein said software includes a password portion configured such that said user has to enter a password with said interface to use said computer device.

37. The interactive personal nutrition and exercise management tool computer device of Claim 16, further including an alarm and wherein said software includes an alarm portion.

38. The interactive personal nutrition and exercise management tool computer device of Claim 16, wherein said user can program said alarm portion such that said alarm goes off when said nutrition accumulation approaches a predetermined limit.

39. The interactive personal nutrition and exercise management tool computer device of Claim 16, wherein said exercise data includes calorie burning rates for said various exercise activities.

40. A method for tracking nutrition consumed by a user and nutrition burned by said user with an interactive personal nutrition and exercise management tool that includes a housing, a processor located within the housing and operatively coupled to a memory, a user interface and a display, the method comprising the steps of:

storing nutritional data for various food items in said memory;

receiving a food item selection from said user for at least one food item;

retrieving said nutritional data for said food item selection;

accumulating said nutritional data for a plurality of food item selections over a time period;

storing exercise data for various exercise activities in said memory;

receiving an exercise data selection from said user for at least one exercise activity;

retrieving said exercise data for said exercise data selection;

receiving and storing personal data of said user in said memory;

calculating a nutritional burn rate over said period of time from said personal data and said exercise activity selection.

41. The method of Claim 40, wherein said step of receiving said food item selection from said user includes the step of navigating with said user interface and said display through a nutrition menu.

42. The method of Claim 40, wherein said step of receiving said exercise activity selection from said user include the step of navigating with said user interface and said display through an exercise menu.

43. The method of Claim 40, wherein said step of receiving and storing said personal data includes the step of receiving and storing , at least, said user's weight, height, and sex.

44. The method of Claim 40, wherein said step of storing said nutritional data for various food items in said memory includes the step of storing a calorie content per serving of said various food items.

45. The method of Claim 44, wherein said step of storing said nutritional data for various food items in said memory includes the step of storing a fat content per serving of said various food items.

46. The method of Claim 40, wherein said step of storing said nutritional data for various food items in said memory includes the step of storing a fat content per serving of said various food items.

47. The method of Claim 40, further including the step of receiving a serving size of said food item selection.

48. The method of Claim 40, further including the steps of receiving an exercise time of said exercise data selection and using said exercise time to calculate said nutritional burn rate over said period of time.

49. The method of Claim 40, further including the step of receiving exercise data from exercise equipment.

50. The method of Claim 40, further including the steps of receiving an activity level of said particular exercise activity and using said activity level to adjust said nutrition burn rate.

51. The method of Claim 40, further including the step of displaying said nutrition data that has been accumulated over said time period in a tabular format on said display.

52. The method of Claim 40, further including the step of displaying said nutrition data that has been accumulated over said time period in a graphical format on said display.

53. The method of Claim 40, further including the step of displaying said nutritional burn rate that has been accumulated over said time period in a tabular format on said display.

54. The method of Claim 40, further including the step of displaying said nutritional burn rate that has been accumulated over said time period in a graphical format on said display...

55. The method of Claim 40, further including the step of receiving a password from said user.

COMMENTS

Claims 16-55 have been added. Claims 1-55 are now pending in the present application. Applicant has added new Claims 16-55 which recite subject matter previously disclosed but not claimed. Applicant therefore submits that no new matter has been introduced. In accordance with 37 C.F.R. § 1.173(c), Applicant respectfully directs the Examiner to Column 13, Column 14, Column 15, and Column 16, which provide the support in the disclosure for the new claims

Applicant respectfully notes that U.S. Patent No. 5,890,128 has not been assigned. As such, there are no assignees and thus, for the above-identified reissue application, a written consent of all assignees is not required under 37 C.F.R. §1.172.

CONCLUSION

Applicant therefore submits that the present reissue application is in condition for examination on the merits. If any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicant's attorney in order to resolve such issue promptly.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: March 29, 2001

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**REISSUE APPLICATION BY THE INVENTOR, OFFER TO SURRENDER  
(37 CFR 1.178)**

**TO THE COMMISSIONER OF PATENTS AND TRADEMARKS:**

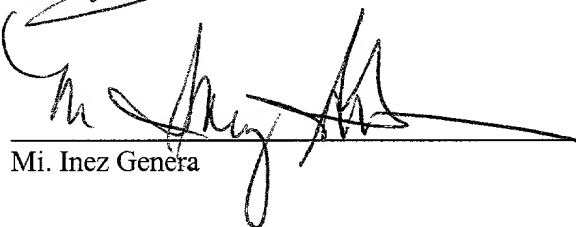
The undersigned applicants of the accompanying application for the reissue of letters patent for the improvement in PERSONALIZED HAND HELD CALORIE COMPUTER, U.S. Patent No. 5,890,128, issued on March 30, 1999, hereby offers to surrender said letters patent.

APPLICANT

Dated: 3/27/01

  
H. Benjamin Diaz

Dated: 3/27/01

  
Mi. Inez Genera

RECEIVED  
MAR 29 2001  
PATENT & TRADEMARK  
DIVISION